

LORI HARPER SUEK
Assistant U.S. Attorney
U.S. Attorney's Office
James F. Battin U.S. Courthouse
2601 Second Ave. North, Suite 3200
Billings, MT 59101
Phone: (406) 657-6101
FAX: (406) 657-6989
E-Mail: Lori.Suek@usdoj.gov

ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GREGORY ADAM KILWEIN,

Defendant.

CR 18-41-BLG-SPW

OFFER OF PROOF

The defendant, Gregory Adam Kilwein is charged by indictment with possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1).

PLEA AGREEMENT

There is no plea agreement. Kilwein will plead guilty to the indictment. Resolution of the case without a plea agreement is the most favorable resolution for Kilwein. *See Missouri v. Frye*, 566 U.S. 134, 145-46 (2012).

ELEMENTS OF CHARGE

In order for Kilwein to be found guilty of possession with intent to distribute methamphetamine, as charged in indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant possessed methamphetamine;

Second, the defendant possessed it with the intent to deliver it to another person.

Additionally, while not a formal element of the offense, the government would also have to prove beyond a reasonable doubt that the defendant possessed with the intent to distribute 500 or more grams of a substance containing a detectable amount of methamphetamine.

PENALTY

This offense carries a mandatory minimum ten years to life imprisonment, a \$10,000,000 fine, at least five years of supervised release, and a \$100 special assessment.

The defendant also agrees to plead true to the forfeiture count.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

On March 1, 2018, a Billings Police Department Officer saw Kilwein riding a bicycle on a sidewalk in downtown Billings. That is a violation of a city ordinance. Additionally, Kilwein was acting suspiciously by watching the Officer and then trying to avoid him by going around the block. When the Officer pulled behind Kilwein in an alley, Kilwein dropped his bicycle and took off running. While fleeing, Kilwein threw a bag he was carrying over a fence.

After a brief chase, the Officer caught Kilwein and retrieved the bag that Kilwein threw. Lying near the bag in the snow was a package covered in tape that had fallen out of the bag. When the Officer picked up the bag, he could see, in plain view, a similar taped package and white envelopes containing money.

Kilwein was on state probation at the time. His probation officer authorized a search of Kilwein, the bag, and Kilwein's residence. The bag contained \$12,450 in United States currency. Each taped package in the bag weighed approximately 500 grams and contained suspected methamphetamine. Kilwein was arrested and, at the jail, detention staff found a bag with approximately four ounces of methamphetamine in Kilwein's underwear.

On March 3 and 4, 2018, a Billings Task Force Officer listened to Kilwein's jail calls. During the calls, Kilwein talked with his parents and his brother and instructed them to clean out his apartment. Specifically, he told them to get rid of stuff and told them that there is cash hidden at his apartment and at their house, and he provided the locations. At Kilwein's apartment, the drug task force seized an additional approximately four pounds of methamphetamine and \$3900 in United States currency located in a safe. After the task force contacted Kilwein's parents, they consented to a search of their home and they voluntarily turned over \$14,000 in United States currency.

A search conducted of Kilwein's phone seized at the time of his arrest revealed messages to a Mexican phone number belonging to an individual under investigation by the Billings drug task force living in Mexico.

DATED this 11th day of July, 2018.

KURT G. ALME
United States Attorney

/s/ Lori Harper Suek
LORI HARPER SUEK
Assistant U.S. Attorney